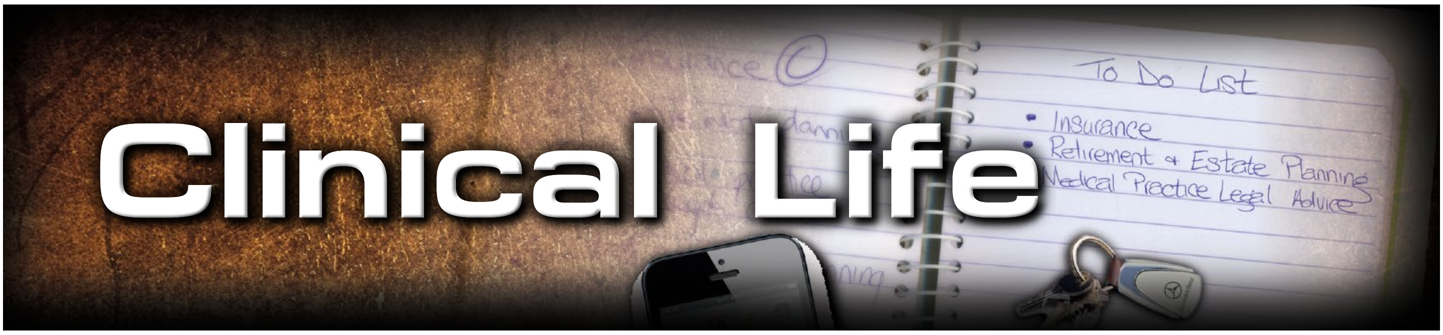

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In this review:

Life Insurance for self-employed medical professionals

A Life Insurance policy is designed to provide peace of mind that loved ones and financial commitments such as residential and investment debt can all be managed in the event of the life insured passing away. Whether it's retiring debt or ensuring that the surviving spouse/partner has sufficient funds to continue managing daily expenses like school fees, bills etc.– both are important issues and if not properly addressed then the ramifications can be severe. Making relevant plans in the event of one's passing is both respectful and responsible to loved ones but, how best is a Life Insurance policy structured to maximise tax deductions and therefore minimise overall costs?

In my experience over the years in advising self-employed medical professionals, the issue of how best to structure a client's Life Insurance policy has changed along with changes in legislation and regulations however, one thing remains the same – we always aim to maximise tax deductions for any personal Insurances you may have.

Every self-employed medical professional is different but generally trade under one of the following structures:

- **Sole Trader, Partnership, Trust, Employee of own company** or **Pty Ltd**

The good news is that if you fall under one of these categories then obtaining tax deductions for your Life Insurance is generally a distinct possibility – so how does it work?

As a self-employed person, any voluntary contributions we make towards Superannuation are tax deductible (up to legislated maximums) which you may be well aware of. This provision can often be utilised for your Life Insurance.

For example, as a self-employed medical professional rather than have your Life Insurance owned by yourself (i.e. Policy Owner = Dr John Smith) it may be worth exploring having your cover owned by

A) **The Insurance companies Super Fund** (e.g. Policy Owner = XYZ Super Fund). Under this structure your monthly or annual premiums can be treated as Super contributions and therefore tax deductible to you as an individual.

Insurer	Life Insured	Policy Owner	Premium	Tax Deductions
AIA	Dr John Smith	AIA Super Fund	$500 / month	$200 / month or $2,400 pa*

**Based on a marginal tax rate of 40%. All retails Life Insurer's provide complying Super funds for the purpose of owning Insurance – they are not in place of normal investments funds.*

B) **Your own Self Managed Super Fund** (SMSF)– many medical professionals we advise have established an SMSF. The reasons for establishing an SMSF are often varied and include buying and owning property through Super, the ability to manage their Super themselves rather than be dictated to by a retail or industry fund and to minimise tax. Life Insurance can be owned within the fund and a tax deduction is claimed for the full amount of any premium paid.

Whilst the above structures may be worth strong consideration it's also important to note the following:

A) If you are already contributing the maximum allowable amount towards Super then talking through the above with a trusted and experienced adviser is important, as there are often still tax effective options for funding insurance.

B) Implementing a similar structure for a spouse or partner is also worth seeking advice on as these options are not limited to self-employed individuals.

> Taking the time to implement a Life Insurance policy to insure your loved ones and financial commitments is a basic and logical step, however taking the time to ensure it's done correctly is another matter altogether and one worth exploring not only for your sake but your family's sake, as after all, that's what we're protecting

So, is it difficult to implement such changes or improvements to your personal Insurances?

The short answer is – no.

Having a trusted and experienced adviser who will address and advise you with regards to such matters on your behalf is often the best way forward and gaining a second opinion re your current structures can be triggered with a quick phone call or email.

As many medical professionals are time poor and don't regularly review their existing Life Insurances, it is worth having an adviser assess what structure may be appropriate as well as determining:

A) **Sums Insured** – making sure they are in line with your evolving personal circumstances

B) **Beneficiaries/Structures** – E.g. whether your estate should be the beneficiary vs. your spouse/partner or children as this can have significant tax implications in the event of a claim.

Clinical Life

Life Insurance for self-employed medical professionals

By Miguel Frances, Senior Adviser, Lowe Financial Group

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LOWE financial group

Adding Value to your SMSF with Business Premises

Owning your health centre premises in a Self Managed Super Fund (SMSF) can make a great deal of sense for SMSF's trustees and business owners alike. It can provide a steady source of income and capital growth for the SMSF and also provides stability for the practitioner rather than having a 3rd party landlord. At the same time, having your business premises in a SMSF rather than holding it personally or in a company can offer significant tax savings on disposal.

Finally, SMSF's also offer one of the most robust structures to protect assets from creditors in bankruptcy.

How can the SMSF legally purchase business premises from the business owners?

Unlike residential properties, 'business real property' can be purchased from related parties by a SMSF without breaching section 66 of the SIS Act. The property is required to be business real property that is used exclusively in a business (e.g. it can't be a retail shop with a residential premise above it). In addition, the acquisition needs to be at market value (i.e. independently valued).

The sole purpose of the transaction must be to provide a retirement benefit for the members (i.e. consistent with the investment strategy of the SMSF). You should consult with your financial advisor if appropriate to ensure it is a good fit within your portfolio.

Can the property be transferred for nil consideration?

Business premises can also be transferred into an SMSF without cash (in-specie). The transfer is considered a contribution for the SMSF members and subject to the contribution cap limits. Non-Concessional Personal Contributions of $150k per annum is the contributions limit each year (subject to the age and work status of the member). However, for those members under the age of 65 non-concessional contributions of $450k per member can be utilized using the 'bring-forward' rule. Concessional employer or concessional personal contributions can also be made dependent on the age of the practitioner and other fund members.

Most SMSF's have commonly two members (with a maximum of four members), and therefore most medical practioner's with commercial properties being under 1 million dollars in value can typically be transferred in without breaching contribution limits and incurring excess contributions tax. Care needs to be taken when making contributions in the following two years if you trigger the 'bring forward' provisions. A combination of cash/in-specie payments could also be done to transfer the property in.

What about gearing if the SMSF does not have sufficient funds to purchase outright?

Yes, this is possible but it is vital that the transaction is completed in the correct manner and properly documented.

Business real property can be purchased by the SMSF from a related party providing any existing mortgage has first been discharged. The existing gearing must be extinguished before being transferred into the SMSF, and a new gearing arrangement can be established through a limited recourse borrowing arrangement. It is critical that an independent valuation is used to determine the purchase price.

Unlike an ordinary borrowing arrangement, a limited recourse loan is established through a bare trust to gear the property legally in an SMSF. It is generally recommended that the level of borrowing do not exceed 60 - 70% of the value of the property. The reason for this is that generally the investment will be cash flow positive and not require additional funding from outside the SMSF. Defaulting on repayments in these arrangements may trigger a personal guarantee payment demanded by your bank, and that payment would be considered a contribution by the member, potentially giving rise to excess contribution tax if the contribution limits are exceeded.

The limited recourse borrowing arrangement can be an ideal opportunity to give the SMSF members the ability to purchase a property they would not otherwise have the resources to afford. It is critical to seek expert tax and legal guidance to benefit from these structures.

Commercial Lease Arrangements

Once the health centre is within the SMSF, a legally enforceable lease arrangement between the trustee of the SMSF and the related party (sec 71 SIS) must be drawn up. We would recommend a solicitor to be engaged to draw up a commercial, fully documented, lease agreement between the SMSF trustees and the business. Rent should be specified in the contract to be payable at a market value from the business to the SMSF and also, for example, outlining the consequences of not paying rent on time. Rent should also be adjusted regularly in future years to ensure that rent paid is always at market value.

Tax implications

Capital Gains Tax

Capital Gains Tax may not be payable on the sale or transfer into the SMSF of an existing property dependant on whether the business premise is used in the related parties business and if they pass the Small Business CGT Concessions. The Capital Gain may also be reduced in certain circumstances by the member making a concessional contribution into the SMSF and claiming a deduction to offset the gain.

Once the members' of the SMSF turn 55, they can also commence a pension (transition to retirement income stream), and may not be subject to capital gains tax on the subsequent sale of the property. This is a major benefit to business taxpayers that cannot access the small business capital gains tax concessions. Because the tax on the gain is not apportioned between the years the property is increasing in value whilst they are in accumulation phase and the years in pension phase, once a pension has commenced the capital gains on sales of assets within the SMSF become tax free.

If the property is disposed of by the SMSF before pension phase has commenced, and the building has been held for longer than 12 months, the tax on any capital gain is still concessionally taxed in the SMSF at only 10%.

Stamp Duty

Stamp duty may also be payable in some States when the property is transferred to the SMSF and dependant on how the transaction is structured.

Income Tax

Rental income less outgoings are taxed in the SMSF at 15 cents in the dollar. The rental expense in the business if it is a corporate taxpayer receives a tax refund of 30%, saving 15 cents in every dollar of tax paid by the family overall. This saving rises to 30 cents in the dollar once the members commence pension phase.

Other Issues

The property and the SMSF assets need to be valued at market value each year. The value should always be compared to the Council rates notice. If the SMSF is not valued at market value, then the SMSF may not qualify for the pension concessions and all income will be taxed at 15%.

Owning the health centre property in a SMSF also forms an excellent barrier for asset protection purposes, removing exposure of the property to creditors and other inherent business risks. However, there are claw back provisions in the Bankruptcy Act for contributions made to defeat creditors.

Management of the transaction is a complex arrangement between superannuation specialist lawyers, conveyancers and accountants. The process needs to be carefully managed to ensure all parties concerned perform their specific functions on time and correctly.

SMSF's lead both industry and retail funds because of the investments that only these funds can purchase. Although trustees take on more responsibility, they will continue to be the superannuation structure of choice in the future. Trustees should seek advice prior to a final decision to pursue the strategy to insure that any pitfalls are identified and can be provisioned.

Clinical Life

Adding Value to your SMSF with Business Premises

By Travis Allen CPA, Director, Hillyer Riches

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